

## **STATE'S MOTION FOR RELEASE OF VICTIM'S MEDICAL RECORDS**

Criminal Rule 39 – Victims' Bill of Rights does not allow the victim to withhold from the prosecution the victim's medical records that are necessary to prosecute the case.

The State of Arizona, through the undersigned Deputy County Attorney, hereby requests this Court to order the release of medical records of the victim, [name], date of birth [date] from [name of hospital] in [city], for treatment received [dates of treatment]. The State needs the victim's medical records to prosecute this matter. Although the victim's father indicated that the victim would authorize the hospital to release the medical records, the victim was released from the hospital before the State could obtain the victim's signature. An investigator from the Maricopa County Attorney's Office subsequently went to the victim's home and left two messages, but the victim has not responded to those messages. Additionally, this office mailed the authorization form to the victim, but to date the victim has not returned the form.

The victim is a friend of the defendant's and was a passenger in the defendant's vehicle at the time of this collision. Because of this relationship and the victim's failure to respond to this office's messages, the State anticipates that the victim will not assist in this prosecution. For these reasons, the State requests that this Court order the release of the victim's medical records pursuant to *Benton v. Superior Court*, 182 Ariz. 466, 897 P.2d 1352 (App. 1994). That case stated, "Nothing in the constitution or statutes indicates that a victim can impede a criminal prosecution by refusing to release medical records necessary for the prosecution of a defendant." 182 Ariz. at 468, 897 P.2d 1352 at 1354.